

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

KERN STAPLES,)	
)	
Plaintiff,)	Civil No. 04-1664-TC
)	
v.)	FINDINGS AND
)	RECOMMENDATION
JO ANNE B. BARNHART,)	
COMMISSIONER OF SOCIAL SECURITY,)	
)	
)	
)	
<u>Defendant.</u>)	

COFFIN, Magistrate Judge:

This court issued an order to show cause why defendant's unopposed motion (#10) to dismiss should not be allowed after plaintiff failed to respond to such motion. Plaintiff was ordered to respond within twenty days and cautioned that a failure to respond would result in the dismissal of this action for failure to prosecute and failure to comply with a court order. Plaintiff has not responded. As such, this action should be dismissed for failure to prosecute, failure to comply with a court order, and for the reasons

stated in the defendants' motion. The five factors for dismissal discussed in Malone v. United States Postal Service, 833 F.2d 128 (9th Cir. 1987) have been weighed and indicate that dismissal is proper.

DATED this 31 day of August, 2005.



THOMAS M. COFFIN
United States Magistrate Judge